IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.644 OF 2004
IN
NOTICE OF MOTION NO.3062 OF 2001
IN
SUIT NO.73 OF 2000

Kaushlendra Dasji .. Appellant.

V/s.

Shree Swami Hathiramji Mutt
& Another .. Respondents.

Mr.Y.S. Jahagirdar, Senior counsel with Ms.Geeta Shastri for the appellant.

Mr.Rohit Kapadia, Senior counsel with Mr.B.H. Prasad Shahrma for the respondents.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 3RD NOVEMBER, 2004.

P.C. :

Heard the learned senior counsel for the parties.

2. Admit.

3. The advocate on record for the contesting respondent waives service.

4. By consent the appeal is treated on board for final hearing.

5. The learned senior counsel for the parties agreed that the impugned order be modified by the following order.

i) The notice of motion is granted in terms of prayer clause (c).

ii) The Court Receiver shall first carry out inventory of all the properties of the trust. The Court Receiver shall find out what are the properties of the trust, who are in possession of those properties, the persons who are found in possession are claiming to be in possession on what right.

iii) The Receiver shall appoint the defendant No.2 as his agent for the purpose of management of the properties. As agent of the Receiver, the defendant No.2 shall be entitled to receive the rent, if the properties are occupied by tenants. The defendant No.2 shall also be

entitled to collect the amount from the collection at the temple. If the defendant No.2 is in possession of any of the properties of the trust, the Receiver shall appoint him as the agent of the Receiver in possession of those properties on usual terms and conditions, without royalty and security.

iv) The defendant No.2 shall maintain an offeratory box at Ranchhodji Temple at Bhuleshwar, Bombay into which all offerings will be deposited. The said box shall be sealed by the Court Receiver, who shall open the same at suitable intervals and invest the offerings found therein in suitable Fixed Deposit of nationalised banks.

v) The Receiver may also continue the existing arrangement as to Pooja.

vi) The Receiver after preparing inventory of the properties as directed above, shall submit a report to the court and seek suitable orders from the Court.

vii) The Receiver shall supply a copy of the report to both parties.

viii) The parties shall be entitled to seek suitable interim reliefs on the basis of the report of the Receiver.

ix) The defendant No.2 as agent of the Receiver shall maintain accounts and shall submit them every half yearly to the Receiver, with a copy to the plaintiff.

x) The amount that will be collected by the agent of the Receiver, apart from being accounted, shall also be deposited with the Receiver, who shall keep the amount invested in Fixed Deposit, after providing for the routine expenditure not exceeding Rs.10,000/- per month that may be necessary.

xi) Interim order in terms of prayer clause (d) shall also operate until further orders of the Court.

xii) The transfer of tenancy rights shall not be transferred without the leave of the Court.

6. We order accordingly.

7. The appeal is, thus, disposed of. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)